

CIVIL COMPLAINT FORM TO BE USED BY A *PRO SE* PRISONER

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

Christopher F. Mbewe 590416
Full Name of Plaintiff Inmate Number

Civil No. 4:21-CV-0654
(to be filled in by the Clerk's Office)

v.
Former Superintendent
Theresa A. Delbalso
Name of Defendant 1

☐ Demand for Jury Trial
☐ No Jury Trial Demand

Michael J. Dunkle
Name of Defendant 2

CRAWFORD
Name of Defendant 3

Chapman
Name of Defendant 4

Name of Defendant 5
(Print the names of all defendants. If the names of all
defendants do not fit in this space, you may attach
additional pages. Do not include addresses in this
section).

I. NATURE OF COMPLAINT

Indicate below the federal legal basis for your claim, if known.

- ☒ Civil Rights Action under 42 U.S.C. § 1983 (state, county, or municipal defendants)
☐ Civil Rights Action under Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388
(1971) (federal defendants)
☒ Negligence Action under the Federal Tort Claims Act (FTCA), 28 U.S.C. § 1346, against the
United States

II. ADDRESSES AND INFORMATION

A. PLAINTIFF

Christopher F Mbeve

Name (Last, First, MI)

Inmate Number

JG 0416

Place of Confinement

SCI Mahanoy

Address

301 Morea Road, Frackville, PA 17932

City, County, State, Zip Code

Indicate whether you are a prisoner or other confined person as follows:

- ☐ Pretrial detainee
☐ Civilly committed detainee
☒ Immigration detainee
☒ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner

B. DEFENDANT(S)

Provide the information below for each defendant. Attach additional pages if needed.

Make sure that the defendant(s) listed below are identical to those contained in the caption. If incorrect information is provided, it could result in the delay or prevention of service of the complaint.

Defendant 1:

Name (Last First)

Theresa A. Debalzo individual capacity

Farmer Superintendent

Current Work Address 301 Morea Road

SCI Mahanoy

City,

Frackville PA 17932

Defendant 2:

Michael J. Dunkle individual capacity official capacity

Name (Last, First)

Michael J. Dunkle

Current Job Title

CAPTAIN

Current Work Address

SCI Mahanoy, 301 Morea Road

City, County, State, Zip Code

Frackville PA 17932

Defendant 3:

Crawford individual capacity

Name (Last, First)

Crawford official capacity

Current Job Title

Correction Officer

Current Work Address

SCI Mahanoy, 301 Morea Road

City, County, State, Zip Code

Frackville, PA 17932

Defendant 4:

individual capacity official capacity

Name (Last, First)

Cheepman

Current Job Title

Correction Officer

Current Work Address

SCI Mahanoy, 301 Morea Road

City, County, State, Zip Code

Frackville PA 17932

Defendant 5:

Name (Last, First)

Current Job Title

Current Work Address

City, County, State, Zip Code

III. STATEMENT OF FACTS

State only the facts of your claim below. Include all the facts you consider important. Attach additional pages if needed.

A. Describe where and when the events giving rise to your claim(s) arose.

SCI Mahanoy I was issued a pass to report Property
room to pick up legal mail 8:00 AM - 8:30
May 23rd 2019.

B. On what date did the events giving rise to your claim(s) occur?

May 23rd 2019 8:00 about 8:30

C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what?)

on May 23, 2019, I was issued a pass to report to Property room to pick up legal mail.
When I arrived, C/O Crawford and an other officer Chapman, were waiting for me and
immediately begining to inspect the box legal documents that were mailed me from Mrs Elizabeth
Delosa, Esquire who is an attorney with the Duquesne University School of Law
Innocent Project. After inspecting approximately 300 to 600 pages of trial transcripts that
were being returned to me from attorney Delosa, C/O Crawford handed me the trial transcripts
while conducting his inspection of the second package of documents (Legal Briefs, motions
opinions, ETS) contained within the same box as the first set of trial transcripts he had
already given me, the inspection was stopped and a phone call was made to Lt. Well
arrived C/O Crawford what he meant by that statement, and he stated "your legal mail is
showin positive for drugs.

Lieutenant Well, left the room, and C/O Crawford being to write a (DC-154A) Confiscation
Slip which he issued to me after confiscating "All of the remaining legal matteral attorney
Delosa had mailed to me. He also too back the first package of document he had
already inspected and give to me. C/O Chapman ordered Plaintiff to take a
seat on a bench in the property room where he could not see what was being
done with his mail. In which a few moments later Plaintiff mail tested positive
for drugs. This issue was never raised in plaintiff grievance. He wants to be sure
that parts of the Inconter is not left out due to its importance.

IV. LEGAL CLAIM(S)

You are not required to make legal argument or cite any cases or statutes. However, state what constitutional rights, statutes, or laws you believe were violated by the above actions. If you intend to assert multiple claims, number and set forth each claim in separate paragraphs. Attach additional pages if needed.

Plaintiff Christopher Mbene, bring the claim on violation of his rights under the Eighth and Fourteenth Amendments under the United States Constitution to be free from unlawful seizures, abuse of power and cruel and unusual punishment. Plaintiff also bring state law of discrimination. Plaintiff believes that there was no pictures or type of action taken against Mbene, even after Mbene requested for security / peacekeeping to turn the positive legal mail over to the state police was because they wanted to hide that they were wrongfully confiscating Plaintiff legal documents.

Now because they wrongfully confiscated Plaintiff legal documents it has now become a government interference denying Plaintiff Mbene access to his legal documents and to the courts.

V. INJURY

Describe with specificity what injury, harm, or damages you suffered because of the events described above. I was mentally injured. I'm already fighting for my life and now I'm denied my legal mail. My legal mail is my only means of defense. I can't defend myself in court without being able to produce exhibits in my legal mail.

VI. RELIEF

State exactly what you want the court to do for you. For example, you may be seeking money damages, you may want the court to order a defendant to do something or stop doing something, or you may be seeking both types of relief. If you are seeking monetary relief, state your request generally. Do not request a specific amount of money. I want the court to have my legal mail tested for drugs. So when my legal mail comes clean I would like the courts to order the

Do not pay the attorney I'll need to hire to catch up my work. As for as damages I want \$230,000 for pain and suffering. This should cover lawyer fees \$230,000.00

VII. SIGNATURE

By signing this complaint, you represent to the court that the facts alleged are true to the best of your knowledge and are supported by evidence, that those facts show a violation of law, and that you are not filing this complaint to harass another person or for any other improper purpose.

Local Rule of Court 83.18 requires *pro se* plaintiffs to keep the court informed of their current address. If your address changes while your lawsuit is being litigated, you must immediately inform the court of the change in writing. By signing and submitting the complaint form, you agree to provide the Clerk's Office with any changes to your address where case-related papers may be served, and you acknowledge that your failure to keep a current address on file with the Clerk's Office may result in dismissal of your case.

Chris Moore
Signature of Plaintiff

Feb 28 - 2021
Date

No retaliation

THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF PENNSYLVANIA

CHRISTOPHER F. MBEWE

Plaintiff

V.

DEPARTMENT OF CORRECTIONS
FORMER SUPERINTENDENT DEBALSO,
CAPTIAN M. DUNKLE,
CORRECTION OFFICER CRAWFORD,
CORRECTION OFFICER CHAPMAN,
Defendants

CIVIL NO:

FILED
SCRANTON

APR 09 2021

PER

DEPUTY CLERK

COMPLAINT

I. INTRODUCTION

1. Plaintiff Christopher Mbeve, bring this civil rights action pursuant to ~~Bivens~~, based on violation of his rights under the Eighth and Fourteenth Amendments under the United State Constitution to be free Unlawfull seizures Abuse of power and cruer and unsal punishment. Plaintiff also bring State law claims of discrimination.

2. This a civil action authorized by 42U.S.C. Section 1983 to redress the deprviation, under the color of State law, of rights secured by the Constitution of the United States. This court has jurisdiction under 28 U.S.C. Section 1331 and 1343 (a) and Supplemental Juurisdiction over the State law claims pursuant to U.S.C. §1367 (a).

3. The United States District Court of the Middle of Pennsylvania is an appropriate venue under 28 U.S.C. Section 1391 (b) (2) because it is where the events giving rise to this claim(s)

II. PLAINTIFF

4. Plaintiff Mbeve, is an adult indidual who was at all time revevants to this complaint, Incarcerated at state Correctional Institution at (SCI Mahanoy) in Pennsylvania

III. DEFENDANTS

5. Defendant former Superintedent Theresa Delbalso, was at all time relevant to this complaint empolyed by the Pennsylvania Department of correction (PADOC) as a Correctional Former superintendent in SCI Mahanoy Pennsylvania.

6. Defendant Captain Dunkle, is and was at all time releant to this complaint employed by the pennsylvania Department of Correction (PA DOC) as a Correctional Captain in SCI Mahanoy Pennsylvania

7. Defendant Lieutenant Wall , is and was at all time releant to this Complaint employed by the Pennsylvania Department of Correction (PA DOC) as a Correctional Lieutenant in SCI Mahanoy Pennsylvania.

8. Defendant C/O CrawFord , is and was at all time releant to this Complaint employed by the Pennsylvania Department of Correction (PA DOC) as a Correctional Officer in SCI Mahanoy Pennsylvania.

9. Defendant C/O Chapman is and was at all time releant to this Complaint employed by the Pennsylvania Department of Correction (PA DOC) as a Correctional Captain in SCI Mahanoy Pennsylvania.

10. All Defendant were acting color of state law.

11. All Defendant are sued in both their individual and official.

12. Plaintiff Chris Mbewe, is currently Incarcerated at SCI Mahanoy (PA DOC) State Institution of Frackville PA Pennsylvania.

FACTS

13. On May 23,2019, I was issued a pass to report to the property room to pick up legal mail. When I arrived, C/o CrawFord and an other officer Chapman, were warting for me and immediately beging to inspect the box legal documents that were mailed to me from Mrs Elizabeth Delosa, Esquire, who is an attorney with the Duquesne University School of Law Innocent Project.

After inspecting approximately 500 to 600 pages of trial transcripts that were being returned to me from attorney Delosa, Co CrawFord handed me the trial transcripts. while conducting his inspection of the second package of documents (legal Briefs, Motions, Opinions, ETS). contained within the same box as the first set of trial transcripts he had already given me, the inspection was stopped and a phone call was made to Lt. Wall, when Lt. Wall arrived Co craFord Stated to Lt. Wall and me that " my legal mail was Hot." At that point i asked Co Crawford what he meant by that statement, and he staed "you legal mail is showinh positive for druugs.

Lieutenant Wall, left the room, and Co Crawford being to write a (DC-154A) confiscation slip which he issued to me after confiscating "All" of the remaing legal matteral attroney Delosa had maild to me. He also too back the firt package of document he had already inspected and give to me

14. During time of inspection of Plaintiff Mbewe, legal mail C/o Chapman ordered Plaintiff to take a seat on a bench in the property room where he could not see what was being done with his mail. In which a few moments later Plaintiff mail tested positive for drugs. This issue was never raised in Plaintiff grievance. He wants to be sure that this part of the incident is not left out due to its importance.

15. Inmates use to state their name and inmate number in front of camera and give ID to officer, so everything was recorded. This time none of this happened. There was no camera and Plaintiff did not need to state name and number.

16. Plaintiff Chris Mbewe, never received a misconduct and was never found at fault or guilty of his legal mail testing positive for drugs.

17. After this incident occurred there was never a follow up hearing. Plaintiff never notified of any hearing or of any investigation.

18. Plaintiff has been having ongoing problems with his legal mail being confiscated or thrown out. Plaintiff has filed numerous grievances on several different officers concerning his legal mail.

19. Plaintiff Chris Mbewe, filed a grievance May 23 2019. Filed an 6-10-19 appeal to the facility manager it was upheld 6-14-19- at SCI Mahanoy. and Plaintiff final appeal it was denied at SCI Camphill.

20. After Plaintiff Mbewe, legal mail tested positive for drugs Plaintiff requested for an outside Lab to test his legal documents, or turn it over to P.S.P for testing of the legal documents after request was denied Plaintiff, began to pursue a Federal Civil rights action related to the 23rd May 2019 problem.

21. On information and belief other Plaintiff at SCI Mahanoy have also filed grievances or lawsuits against C/o Chapman.

22. Plaintiff, lawsuit named Former Facility Manager Theresa A Delbalso, Captain Dunkle, C/o's Crawford and Chapman.

23. Defendants Former facility Manager Theresa A. Delbalso, cpt, Dunkel and other staff had knowledge of Plaintiff numerous grievances over his legal mail.

CAUSE OF ACTION.

Defendants C/o Crawford and Chapman, used abuse of power in a malicious manner against Plaintiff Mbewe, without justification violating his Eighth Amendment rights.

RELIEF

24. Declaratory relief that defendants violated Plaintiff Mbewe's constitutional rights.
25. Compensatory damages against both defendants.
26. Punitive damages against both Defendants.
27. Plaintiff Mbewe, believes that there was no pictures or any type of action taken against Mbewe, even after Mbewe requested for the Security/Facility to turn the positive legal mail over to the State Police was because they wanted to hide that they were wrongfully confiscating Mbewe's legal mail. Now because they wrongfully confiscated Mbewe's legal Mail it has now become a government interference denying Mbewe access to his legal mail and to the Courts.
28. As a proximate result of the the said act the Defendant suffered and continues to suffer because of the loss of his legal mail.
30. paragraphs 1- are incorporated here in by reference as thoughts fully set forth.

CASES OF ACTION

EIGHTH AMENDMENT ABUSE OF POWER DEFENDENT C/O CARWFORD AND CHAPMAN

31. Defendants C/o Crawford, Chapman, Captain Dunkle and Former Facility Manager Thereas A. Delbalso. conduct and actions in using abuse of power, as described above, violating plaintiff Eighth and Fourteenth Amendments to the United States Constitution to be Free from abuse of power and cruel and unusual punishment.
32. As a proximate result of the said acts of defendants Plaintiff suffered, and continues to suffer, because of the loss of his legal work, the following injuries and damages.

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32. As a proximate result of the said acts of defendants Plaintiff suffered, and continues to suffer, because of the loss of his legal work, the following injuries and damages.

LEGAL CLAIMS

Plaintiff reallege and incorporate by refernce paragarphs

The failure to protect, and deliberate indifference violated Plaintiff rights and constituted cruel and unusal punishment under the Eighth Amendment of the United States Constitution.

PRAYER FOR RELIF

WHEREFORE Plaintiff Mbewe, respectfully prays that this court enter Judment grabbing Plaintiff Mbewe,. A declaration that the acts and omissions descirion herein violated Plaintiff's rights under constitution and laws of the United States.

Compensatorry damage in the amount of \$ 230,000,00 against each Defenant, jointly and severally.

Punitive damages in the amount of \$ 180,000,00 against each Defendant a jurt trial on all issues triable by jury.

Plaintiff coste in this action/suit. any additional relif this court deems just, proper, and equitable

Date 8 - 29 - 2020

Respectfully Submitted:



CHRISTOPHER MBEWE # JG0416
SCI Mahanoy
301 Morea Road
Frackville PA 17932

VERIFICATION

I Christopher Mbewe, have read the foregoing complaint and hereby verify that the matters alleged therein are true, except as to matters alleged on information and belief, and as to those, believe them to be true. I certify under penalty of perjury that the foregoing is true and correct

Date 8-29-2020

Executed at Frackville, Pennsylvania

CI Mahandj
301 Morea Rd
Frackville PA 17932

RECEIVED
SCRANTON

APR 09 2021

PER dw
DEPUTY CLERK

OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA
WILLIAM J. NEALON FEDERAL BLDG & U.S. COURTHOUSE
235 NORTH WASHINGTON AVENUE
P.O. BOX 1148
SCRANTON, PA 18501-1148

4-2-21

